

REMARKS

Claims 1, 5 and 7 are pending in this application. Non-elected claims 5 and 7 are withdrawn from consideration by the Examiner. By this Amendment, claims 1, 5, and 7 are amended and claims 3, 4, 6, and 8-10 are canceled. Support for the amendments to the claims may be found, for example, in the claims as originally filed. No new matter is added.

Entry of the amendments is proper under 37 CFR §1.116 because the amendments: (a) place the application in condition for allowance (for the reasons discussed herein); (b) do not raise any new issue requiring further search and/or consideration (as the amendments amplify issues previously discussed throughout prosecution); (c) satisfy a requirement of form asserted in the previous Office Action; (d) do not present any additional claims without canceling a corresponding number of finally rejected claims; and (e) place the application in better form for appeal, should an appeal be necessary. The amendments are necessary and were not earlier presented because they are made in response to arguments raised in the final rejection. Entry of the amendments is thus respectfully requested.

In view of the foregoing amendments and following remarks, reconsideration and allowance are respectfully requested.

I. Claim Objections

The Office Action objects to claim 6 for various informalities. By this Amendment, claim 6 is canceled, rendering the objections moot. Accordingly, reconsideration and withdrawal of the objections are respectfully requested.

II. Rejection Under 35 U.S.C. §112, Second Paragraph

The Office Action rejects claims 1 and 6 under 35 U.S.C. §112, second paragraph, as being indefinite. By this Amendment, claim 6 is canceled, rendering its rejection moot. As to claim 1, Applicants respectfully traverse the rejection.

By this Amendment, claim 1 is amended to overcome the rejection. The Office Action's suggestion to replace "at least one" with "the" would appear to provide improper antecedent basis for reciting the "primers," thus Applicants have instead opted to amend claim 1 to recite "an amplification primer." Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

III. Rejoinder

Applicants respectfully request rejoinder of non-elected claims 5 and 7. This application is subject to unity of invention practice as set forth in PCT Rule 13. *See* MPEP §1893.03(d). Under unity of invention practice, claims 1, 5, and 7 share a common technical feature that defines a contribution over the prior art, namely the claims all share a set of primers comprising the nucleotides sequences set forth in SEQ ID Nos. 1 and 2. Thus, unity of invention exists between the claims, rendering the Restriction Requirement improper.

Moreover, the set of primers--the special common technical feature between the claims--achieves unexpected results. Upon contacting (under amplification conditions) a target sequence indicative of a member of the genus *Staphylococcus*, the set of primers are able to obtain amplicons with starting concentrations of genomic DNA as low as 2×10^5 copies/ μ l and are specific for each and every of the 39 bacterial species of the genus *Staphylococcus* that were tested without a single false positive. See specification at page 21, line 20 to page 22, line 10 ("[T]hus demonstrating the very good specificity of the primers according to the invention and, more specifically, of the primer pair according to the invention.").

For at least these reasons, withdrawal of the Restriction Requirement and rejoinder of claims 5 and 7 are respectfully requested.

IV. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of this application are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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